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Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Sections 3(n)
and 332 of the Communications Act

Regulatory Treatment of Mobile
Services

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) GN Docket No. 93-252
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REPLY COMMENTS OF THE NYNEX CORPORATION

NYNEX Corporation

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SUMMARY

In this docket, the Commission faces the task of establishing a regulatory regime for mobile services. The task is difficult: comments express a wide range of different views on a large number of different issues. The impact of the Commission's final decisions will be profound and far-reaching. NYNEX believes that whatever views the Commission accepts, it must be guided by Congress' intent that the regulatory framework be fair, promote robust competition and subject similar services to similar regulation.

In our comments, we proposed a regulatory structure that ensures equitable treatment for all wireless services and subjects those services to minimal regulation only where necessary in the absence of competition. Competitors have presented no persuasive arguments that justify a different view. In view of the competitive environment for mobile services, there is no need for accounting safeguards or other extensive unnecessary regulatory burdens. We support an open architecture that offers customers interconnection between commercial service providers. But, state petitions to regulate interconnection rates of commercial mobile services should not be granted unless a state petition contains an empirical, measurable showing that convincingly demonstrates that its petition is warranted and should be granted.

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REPLY COMMENTS OF THE NYNEX CORPORATION

NYNEX Corporation ("NYNEX") respectfully submits its
reply to the comments filed in response to the Notice of
Proposed Rulemaking ("Notice") in the above-captioned proceeding.

I. INTRODUCTION AND SUMMARY OF POSITION

The Notice occasioned responses by more than 75
parties representing a cross-section of the telecommunications
industry and state government. As would be expected from such
diverse participation, disagreement exists among the commentors
on many of the issues raised in the Notice: the definitional
criteria that should be adopted by the Commission to effectuate
the intent of the statute; how existing services should be
classified under that criteria; whether, and to what extent, the
Commission should forebear from imposing Title II requirements
on commercial mobile services; the interconnection rights and
obligations that should be afforded to, and imposed on,
commercial service providers; the extent to which the Commission

should preempt state regulation of the right to intrastate interconnection; and the standards to be imposed on those states seeking to extend their rate regulation authority.

The comments do, however, reflect consensus on a critical issue that should provide the foundation for the Commission's decision in this case: the Budget Act requires the Commission to adopt rules that will foster a level playing field where all functionally equivalent services are regulated in the same manner.¹

If, as Bell Atlantic suggests, "regulatory parity should serve as the polestar for this rulemaking"², an undue preoccupation with the issue of whether Congress intended a broad or narrow definition of "commercial mobile service" may miss the point. In the face of what some commentators claim is an ambiguous statute, whether a particular service is classified as a "commercial mobile service" or a "private service" may not be as important as adopting a regulatory scheme that treats all providers of functionally equivalent services in a like manner once the classification is made.

After reviewing the comments submitted in this proceeding, NYNEX continues to believe that its comments present

¹ See, e.g., PacTel Corporation at ii, McCaw at 5-7, CTIA at 5, Telocator at 3, Bell Atlantic at 2, Nextel at 5, Sprint at 4, Ameritech at 1, PN Cellular at 2, NTCA at 3, Arch at 6. The commentators also agree that the term "mobile services" used in the Budget Act is intended to bring all existing mobile services, including personal communications services, within the ambit of Section 332. See, e.g., BellSouth at 2, Ameritech at i, Bell Atlantic at 3.

² Bell Atlantic at 2.

the Commission with a proposed regulatory structure that would best implement the regulatory provisions contained in the Budget Act. In this reply, we address the positions of parties that we believe would impede the realization of regulatory parity and thereby inhibit the development of a competitive wireless market.

In Section II, we address those parties' proposed definitional criteria that, if adopted, would undermine the objective sought to be achieved by the Budget Act. In addition, we show that providers of commercial mobile services must be given the flexibility to offer commercial and private services in the most efficient manner.

In Section III, we demonstrate that those commentators who suggest that forbearance would be premature or unwarranted have failed to recognize the highly competitive nature of the market for commercial services. In addition, we show that those commentators who urge the Commission to adopt different regulatory classifications of carriers, or who would subject some carriers to more rigorous regulation than others, do so to protect their private interests rather than the public interest.

In Section IV, we show that the adoption of policies that encourage open interconnection between commercial service providers would promote the public interest. An open network architecture would offer customers accessibility that would provide them with better service and which would promote more robust competition between mobile service providers.

In Section V, we demonstrate that if commercial mobile service is to develop in a fully competitive market, state

petitions to regulate the rates for commercial mobile services should not be granted unless a state can convincingly demonstrate that such regulation is required.

II. THE COMMISSION MUST ADOPT DEFINITIONAL CRITERIA THAT WILL ADVANCE THE GOAL OF REGULATORY PARITY

1. The "For Profit" Test

The commentators generally agree that the "for profit" test should focus on whether the service is offered on a commercial basis to subscribers as opposed to services used only for internal purposes.³ As BellSouth and US West correctly observe, it is sufficient to meet the test that the provider simply have the intention to make a profit. The test does not require that the provider actually make a profit.⁴

The commentators also generally agree that the "for-profit" test should be applied to the service as a whole, not just the interconnected portion of the service.⁵

Some commentators claim that the "for-profit" test is not intended to include services not primarily offered on a for-profit basis.⁶ These parties argue that licensees who operate systems for internal purposes but make excess capacity

³ See, e.g., BellSouth at 4, Southwestern Bell at 6, Sprint at 4-5, CTIA at 7.

⁴ BellSouth at 7, US West at 15.

⁵ See, e.g., US West at 15, McCaw at 15-16, CTIA at 7, Bell Atlantic at 7, Southwestern Bell at 6, Sprint at 5, TDS at 3, New York PSC at 4-5.

⁶ See e.g., Nextel at 8.

available on a for-profit basis do not meet the for-profit criterion. We disagree.

A plain reading of the statute requires that any service which is offered to subscribers for compensation must be considered a for-profit service and, assuming the other criteria are met, classified as a commercial mobile service. The commentators fail to point to any provision of the Budget Act or its legislative history that supports a contrary conclusion. As a result, those providers who use spectrum for internal purposes or non-commercial public safety services and make excess capacity available for compensation should be deemed to be providing commercial service to the extent of their for-profit activities.⁷

Motorola and NABER contend that the Commission should apply the "for-profit" test in a manner that classifies service providers as "commercial" or "private" based on the "majority" or "principal use" of the spectrum by the provider.⁸ Under this line of reasoning, entities that provide services on a for-profit basis would be regulated as private carriers so long as the for-profit services were provided on an ancillary or secondary basis. This interpretation must be rejected by the Commission as fundamentally inconsistent with the intent of the statute.

⁷ Accord, PacTel Corporation at 6, Telocator at 9, Vanguard at 3, Bell Atlantic at 7, Southwestern Bell at 6, Rochester at 3-4, TDS at 4. Shared use systems operated on a for-profit basis, or which employ a for-profit manager, should similarly be classified as "for-profit".

⁸ Motorola at 7, NABER at 8.

The Commission's major objective in this proceeding is to adopt a regulatory framework that ensures an equitable, level playing field for providers of like wireless services. The Motorola and NABER position would take the Commission back to the time when it regulated services based on the classification of the service provider rather than the nature of the service itself. That approach is no longer acceptable under the Budget Act. As we pointed out in our comments,⁹ the best way for the Commission to comply with its statutory mandate is to focus on the use of the service rather than the provider of the service or the user of the spectrum. Any service that is offered by parties to subscribers for-profit and meets the other statutory criteria should be regulated as a commercial service. Such an approach would ensure regulatory parity and fair competition between providers of comparable services.

2. The "Interconnected Service" Criteria

The commentators generally agree that the interconnected service criteria requires more than just physical interconnection to the public switched telephone network ("PSTN").¹⁰ The commentators also agree that interconnected service must offer subscribers the opportunity to send or receive messages to and from points on the PSTN.¹¹ The

⁹ NYNEX at 6-7.

¹⁰ See, e.g., US West at 16.

¹¹ See, e.g., Bell Atlantic at 8-9, Nextel at 10, Southwestern Bell at 6-7, Sprint at 5, New York PSC at 5. This requirement is satisfied by those services that are directly or indirectly interconnected to the PSTN.

parties disagree, however, on whether this opportunity must be provided to the subscriber on a real time basis.

A number of commentators argue that any service that offers customers the ability to receive or transmit messages that use the PSTN is "interconnected".¹² In the view of these parties, end user direct control or real time access is unnecessary. This position cannot be reconciled with Congress' intent to adopt a definitional criteria that would permit appropriate distinctions to be made between commercial mobile services and private mobile services.

As the Notice correctly observes, Congress intended by the use of the term "interconnected service" to distinguish between those communications systems that are physically interconnected with the network and those systems that are not only interconnected but that make interconnected service available.¹³ This distinction, to be meaningful, requires that an "interconnected system" provide subscribers with the ability to directly control access to the PSTN for purposes of sending or receiving messages to or from points on the network.¹⁴

¹² Bell Atlantic at 8-9, Southwestern Bell at 7, Sprint at 5, Rochester at 4, Roamer One at 7, New York PSC at 6, BellSouth at 5, GTE at 6, USTA at 4-5.

¹³ Notice at ¶15.

¹⁴ Accord, TDS at 6-8, Pagemart at 5, E.F Johnson at 6, Rockwell at 3, UTC at 9, Nextel at 10, Vanguard at 4.

3. The Term "PSTN" Should Be Defined To Reflect The Changing Nature Of The Industry

Many commentators urge the Commission to define "PSTN" in the traditional sense; the facilities used in the landline network of local and long distance companies.¹⁵ The Commission should reject this unduly narrow definition of the term.

A narrow definition of the PSTN would be inconsistent with Congress' intent to have the Commission implement the statute in a manner that recognizes that commercial mobile services are not provided in a static environment. The development of ubiquitous wireless networks will provide customers with attractive alternatives to the existing landline networks. In view of this potential, the New York PSC correctly concludes that the PSTN should be defined in a manner that recognizes that today's network is fast becoming a "network of networks", including both wireline and wireless facilities and multiple providers.¹⁶

The Commission's definitional criteria must reflect the revolutionary technological changes and increased competition that characterize the modern wireless environment.

¹⁵ See, e.g., GTE at 6, BellSouth at 9, Motorola at 7-8, Southwestern Bell at 7, McCaw at 17, PacTel Corporation at 10.

¹⁶ NY PSC at 6. See also, Nextel at 11, Sprint at 7. Pacific Bell and Nevada Bell suggest (Pacific Bell/Nevada Bell at 5) that the PSTN should be defined to include all entities that make use of the numbering resources of the North American Numbering Plan, have access to a gateway with call or non-call associated signalling or have access to a national data base. We agree.

The approach suggested by NYNEX and the New York PSC will permit the Commission to avoid having to continually adjust its regulatory policy in an attempt to mirror the current realities of the marketplace.

4. The "Service Availability To The Public" Criteria

The commentators overwhelmingly support the view that services offered generally and without restriction to the public should be considered service made available "to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public."¹⁷ There is substantial disagreement among the commentators, however, on whether, and to what extent, provider-imposed restrictions on eligibility or other limitations placed by providers on their service offerings could result in the service being classified as private.

PacTel, for example, argues that a service should be considered private if eligibility is limited to a specialized group and not generally available to the public.¹⁸ In contrast, Bell Atlantic argues that any access offered to unaffiliated entities should be classified as a commercial mobile service regardless of its limitation to targeted,

¹⁷ See, e.g., GTE at 6-7, Mtel at 8, UTC at 7-9.

¹⁸ PacTel at 12. See also, Nextel at 12 (service offered to limited or specialized user groups is not being offered to the public), Rochester at 6 (a wireless PBX serving a single building would plainly not be available to the public), TDS at 9 (customized services offered to a limited group of users are not offered to the public), Motorola at 8.

specific businesses.¹⁹ Bell Atlantic contends that trying to draw distinctions based on the number of customers served would embroil the Commission in uncertain and impossible efforts to identify the proper regulatory treatment to be accorded the service.²⁰ CTIA takes a broader view and argues that the licensee's intent is not controlling and that the criteria would be satisfied if the customer views the service as a functional equivalent to a commercial mobile service.²¹

There is nothing in the statute or its legislative history which would support the broad view that any interconnected service offered to subscribers for compensation should be classified as a "commercial mobile service". If that had been Congress' intent there would have been no need for the inclusion in the statute of the requirement that service be offered to the public or a substantial portion of the public. Instead, the inclusion of the "available to the public" requirement reflects Congress' intent to eliminate the regulatory inequality that had arisen between common carrier and private carriers as a result of the provision by the latter of service to increasing numbers of eligible users.

¹⁹ Bell Atlantic at 11. See also McCaw at 19 (a specialized nature of a service may limit the number of customers without being an eligibility requirement), Southwestern Bell at 7, Pacific Bell/Nevada Bell at 7 (even services offered to a narrow class of users should be considered available to the public).

²⁰ Bell Atlantic at 11.

²¹ CTIA at 11. See also Arch at 5.

By maintaining a "private" service classification, the statute clearly envisions that not all services offered by carriers would be considered commercial mobile services under the new rule. To the extent that carriers provide services that are so highly specialized as to be of interest to a single customer or limited group of customers, those services should not be considered available to the public or a substantial portion of the public.²²

5. The "Functionally Equivalent" Criterion Should Be Applied In A Manner That Ensures Regulatory Parity

The commentors express a wide variety of views on how the Commission should determine whether a service is "functionally equivalent" to a commercial mobile service. As expected, existing private carriers contend that the reference to "functional equivalence" in the Budget Act reflected Congress' intent to expand the types of services that would be subject to regulation as private service. According to these commentors, a service that squarely meets the statutory test for a commercial mobile service may still be classified as private if it is determined that it is not the functional equivalent of a commercial mobile service.

²² In its comments, NYNEX suggested that the Commission should determine the practical availability of a service in the market served by a licensee on a case-by-case basis. Nothing in the comments suggest to us that our proposal is unsound. While BellSouth's proposal (BellSouth at 11) would provide the Commission with an administratively facile test, we believe it to be arbitrary and without sound basis.

This contention is based entirely on an example provided in the Conference Report of the type of analysis that the Commission could engage in to determine whether services were functionally equivalent. While the example provided in the report may inject some ambiguity into the issue, we believe that the legislative history of the Act as a whole, and the unambiguous language of the statute,²³ evidences Congress' intent to expand the types of services subject to regulation as commercial mobile services.²⁴

NYNEX suggests, however, that the debate over whether the term "functional equivalency" was intended to broaden or narrow the definition of commercial mobile service may overshadow a more critical issue. While reasonable people may reasonably disagree on the proper breadth of the service classifications, there should be no disagreement that functionally similar services should be subject to similar regulation. From this perspective, whether a particular service, such as private paging, is classified as "commercial" or "private" may not be as critical as ensuring that all

23 Section 332(d)(3) defines "private mobile service" as any mobile service that is (1) not a commercial mobile service (as defined by Section 332(d)(1)) or (2) the functional equivalent of a commercial mobile service. The only meaning that can be placed on the second prong of the test is that a service that was not literally a commercial mobile service under Section 332(d)(1), and which would therefore be classified as "private", would still be classified as a commercial mobile service if it was the functional equivalent thereof.

24 Accord, Vanguard at 8-9, Bell Atlantic at 13, Southwestern Bell at 11-12, Sprint at 9, TDS at 10, New York PSC at 8, Mtel at 9, BellSouth at 20-21, USTA at 6.

functionally equivalent services, regardless of the provider, are regulated (or not regulated) in the same manner.²⁵

6. Commercial Mobile Service Licensees Must Be Permitted The Opportunity To Meet Customer Requirements In The Most Efficient And Economical Manner

Several commentators argue that multiple use of the spectrum should not be permitted,²⁶ while another contends that although private and commercial services can exist in the same frequency band they must be provided under separate licenses.²⁷ These parties fail to provide any basis which would warrant denying to licensees the flexibility to use their spectrum to offer commercial and private services under a single license.²⁸

MCI claims that permitting licensees to offer both commercial mobile and private services is incompatible with the new statutory framework.²⁹ But the statute does not support

²⁵ NYNEX continues to believe that the functional equivalency test should be applied on a service-by-service basis to ensure that "like" services are subject to "like" regulation. Moreover, the commentators agree with our view that customer perception should be the linchpin of the analysis. Sprint at 4, Mtel at 10, USTA at 6, DC PSC at 7.

²⁶ General Communications at 2, MCI at 5.

²⁷ Pacific Bell/Nevada Bell at 12.

²⁸ Most parties to this proceeding encourage the Commission to grant licensees such flexibility. See, e.g., PacTel at 14, McCaw at 12-14, Bell Atlantic at 17, Rochester at n.6, TDS at 12, Motorola at 12, GTE at 11-12; NCTA at 4-5, Advanced MobilComm at 5, Arch at 6-7, Corporate Technology Partners at 3, US West at 21.

²⁹ MCI at 5.

this claim. The statute simply requires that commercial mobile services and their functional equivalents be regulated in like manner. The statute also recognizes that carriers may also provide private services. Neither the statute nor its legislative history even remotely suggest that Congress intended to limit carriers in their provision of one service or the other.

General Communications and Pacific Bell argue that permitting licensees to provide both types of services under a single license would create an administrative nightmare for the Commission. NYNEX recognizes that providing carriers with this type of flexibility may give rise to procedural concerns. But any administrative concerns that the Commission may have are outweighed by the public benefits to be gained by creating a flexible regulatory environment. Moreover, NYNEX and other parties have demonstrated that procedures can be adopted which can simplify the burdens associated with this flexible approach.³⁰

III. THE COMPETITIVE MARKETPLACE SUPPORTS FORBEARANCE FROM TITLE II REGULATION

The comments submitted in this proceeding provide overwhelming support for the Commission's tentative conclusion that competition in the commercial mobile services marketplace is sufficient to permit forbearance. The robust competition that currently exists in the provision of these services will be

³⁰ NYNEX at 18.

stimulated by the expected introduction and growth of wireless broadband, PCS and mobile data services.

The New York Public Service Commission contends, however, that forbearance from Title II regulation of commercial service providers would be premature.³¹ The New York Commission's position is surprising in light of decisions previously reached by that Commission and the New York legislature which recognized the competitive nature of the mobile services market. In 1984, after finding the market for paging and non-cellular mobile services to be sufficiently competitive to no longer warrant their regulation, the legislature enacted Section 5.3 of the Public Service law which suspended the Commission's regulation of those services. Although the statute permits the Commission to reinstitute regulation of those services in the event that a breakdown in competitive market conditions occurs, the Commission has never sought to do so. Subsequently, in its decision in Case 29469, the Commission found that the non-essential and competitive nature of cellular services warranted the suspension of regulation over those services as well. Since that time, the Commission has supported the enactment of appropriate legislation that would do just that. In the interim, the Commission has followed a policy of streamlined regulation for cellular carriers.

The California Public Utilities Commission (CPUC) also claims that forbearance would be premature. The CPUC argues

³¹ New York PSC at 3.

that competition does not exist in California in order to ensure just, reasonable and non-discriminatory rates. In support of its argument, the CPUC states that "rates that were set in California nearly nine (9) years ago have not fallen."³² The CPUC's claim, even if true in California, is not supported by the facts across the rest of the country. Indeed, it appears as if the CPUC itself may be to blame for the lack of price competition in its state.

CTIA recently published an article entitled Background Information on State Regulation of Cellular Communications. In it, CTIA cites the actions of the CPUC as the prime example of a state in which regulation inhibits price reductions. In that article, CTIA noted that "the two cellular carriers serving Los Angeles have filed no less than 60 times with the CPUC since 1990 seeking to lower existing rates, offer promotions, or create new rate plans. Statewide in California, there have been at least 40 occasions where the CPUC has rejected or greatly delayed rate reductions during that same period."³³

The fact is that regulation results in higher rates for consumers. The CTIA report also quotes studies done by McCaw, GTE, and BellSouth which confirmed that prices are 10 percent to 15 percent higher in markets where rates are regulated. Indeed, the reports of McCaw Cellular and GTE show that these carriers provide services in unregulated markets at

32 CPUC at 6.

33 CTIA at Background, "State Regulation Does Not Protect Consumers," Tab A.

rates 10 percent to 15 percent below the rates charged for services that they provide in California. Moreover, the rates have dropped in markets where these carriers do not provide landline services and have no "captive rate base" to allegedly cross subsidize the lower rate levels.³⁴ These experiences only buttress the fact that competition, and not rate regulation, has resulted in reduced rates for consumers. NYNEX's own cellular market experiences have validated the findings of those analyses.³⁵

The CPUC also contends that the Commission should not forebear from prescribing accounting systems under Section 220 for dominant carriers in order to protect against cross subsidy and other anticompetitive behavior.³⁶ This recommendation is contrary to the CPUC's own findings that the implementation of accounting systems are not necessary and are undesirable as a means to guard against anti-competitive behavior.

³⁴ CPUC at 8.

³⁵ For example, in NYNEX Mobile's Boston market, the 1985 monthly wholesale access charge for Plan A (the basic service plan) was \$25.00 per month. Currently, NYNEX Mobile customers pay only \$16.00 per month for wholesale basic access. In NYNEX Mobile's New York Metro market, wholesale monthly access rates dropped from \$40.00 per month in 1984 to \$20.00 per month in 1991. These price changes occurred as a direct result of the vigorous competition that exists in NYNEX Mobile's cellular markets. The PCS White Paper No. 4 noted that competition between cellular service providers has produced a nationwide decline in the effective monthly cost of cellular service; down 29 percent from 1985 to 1992. PCS White Paper at p. 4. NYNEX's own statistics support this conclusion.

³⁶ CPUC at 8.

In its Decision in Docket 93-05-069, May 19, 1993, the CPUC anticipated "a far reaching redefinition of the cellular market over the next few years."³⁷ This redefinition was due to the impending entry of non-cellular alternative carriers into the mobile telecommunications market which the Commission believed would result in deep changes to the competitive aspects of the industry.³⁸ As a result of those changes, the CPUC decided not to adopt modified accounting systems for cellular carriers. In its decision, the CPUC said that implementing accounting regulations for cellular carriers would require a great expenditure of carrier time and carrier resources and also would involve a level of the California Commission's time and resources which outweighed the value of these regulations.

In striving to achieve regulatory parity, the Commission should disregard Nextel's self-serving suggestion that regulatory safeguards be imposed on affiliates of "dominant common carriers."³⁹ It is clear that Nextel is attempting to protect ESMR carriers from the competitive challenges of the commercial mobile services marketplace. But, the role of regulation is to protect competition -- not competitors. As Telocator correctly observes, the commercial mobile services marketplace is a market with no monopoly

³⁷ CPUC, Decision 93-05-069, Investigation on the Commission's own motion into the regulation of cellular radiotelephone utilities, at 5.

³⁸ Id.

³⁹ Nextel at 22-24.

participants.⁴⁰ Therefore, the commercial mobile services marketplace does not support a designation of dominant and non-dominant carriers.⁴¹ NYNEX supports NCRA's suggestion that the Commission require all facilities-based commercial mobile service providers to permit the unrestricted resale of their mobile services.⁴² NYNEX does not agree, however, that Title II regulation is required to achieve a competitive level playing field between resellers and facilities based providers. As we have demonstrated, the nature of the competitive market, and the increasing number of mobile service providers will require these providers to be responsive to the needs of resellers.⁴³

IV. NYNEX SUPPORTS THE ADOPTION OF PRO-COMPETITIVE OPEN INTERCONNECTION POLICIES

NYNEX encourages the Commission to apply its Part 22 interconnection practices to and among all commercial mobile service providers and to ensure that all carriers are subject to uniform interconnection requirements. NYNEX favors an open network architecture where all commercial mobile service

⁴⁰ Telocator at 4. For these same reasons, NABER's suggestion to adopt different regulatory classifications for "Commercial 1" and "Commercial 2" carriers is without merit.

⁴¹ Indeed, where RBOC cellular affiliates continue to be required to comply with structural separation requirements of Section 22.901, it is particularly inappropriate to characterize such cellular operations as "dominant" merely because of affiliation.

⁴² NCRA at 5 and 9.

⁴³ Id.

providers can interconnect with one another and with the landline network, thus affording mobile customers with full access to the nation's emerging telecommunications infrastructure.⁴⁴

NYNEX recognizes the technical concerns raised by carriers opposing interconnection rights given the large number of potential commercial mobile service providers.⁴⁵ Indeed, technical concerns exist in connection with some cellular carriers whose switches could not accommodate the direct connection of a panoply of commercial mobile service providers, interexchange carriers, and alternative service providers. However, NYNEX supports open interconnection and the availability of advanced network architectures such as Common Channel Signaling System 7 (SS7) and Advanced Intelligent Networks (AIN).

To advance this objective, NYNEX recommends the use of common network standards, common dialing patterns and full feature and function portability. Utilizing these standards and features, commercial mobile service providers can interconnect with each other and with the entire nationwide telecommunications infrastructure.

Individual state regulation of such interconnection has the potential to create a hodge-podge of interconnection technologies and requirements that would inhibit, rather than

⁴⁴ Accord, US West at 30-32; Pacific Bell/Nevada Bell at 18-22.

⁴⁵ See, e.g., GTE at 20-22; Southwestern Bell at 30.

facilitate, the development of open network architectures. In prior proceedings, the Commission has noted that preemption is appropriate and may be warranted in those instances where it is not possible to separate the interstate and intrastate components of such interconnection.⁴⁶ We believe a uniform policy is required to effectuate an open architecture.

NYNEX agrees with those commentators who suggest that equal access obligations should not be imposed on the PCS providers of mobile services.⁴⁷ Those comments make it clear that there is no justification to impose an equal access requirement on carriers who provide service in any competitive markets.⁴⁸ Thus, NYNEX believes that no commercial mobile service provider should be required to provide equal access. However, the antiquated provisions of the Modified Final Judgment impose restrictions on the RBOCs which do not apply to other carriers. Those requirements pose a threat to the development of robust competition by providing some carriers with artificial competitive advantages. As a result, NYNEX supports the view of commentators who argue that, for reasons of regulatory parity, equal access requirements should be applied to all commercial mobile service providers until such time as

⁴⁶ See, e.g. The Need to Promote Competition and Efficient Use of Spectrum For Radio Common Carrier Services, Report CL-379, released May 18, 1987 at ¶¶13-18.

⁴⁷ PNB at 18-22, GTE at 22-23; TDS at 20-21.

⁴⁸ Telocator at 24.

they are removed for all.⁴⁹ Those who object to an equal access requirement claim that it would be exceedingly difficult to implement in the absence of wireless exchanges. Bell Atlantic, however, has proposed a workable equal access plan that can be implemented by the Commission on an interim basis pending the development of further rules.⁵⁰

Grand Broadcasting proposes an "interconnection" policy that would require cellular mobile carriers to share radio frequency with an alternative service provider. This suggestion goes far beyond reasonable interconnection proposals. Grand does not propose to construct a network to provide its service. Instead, Grand proposes to share cellular mobile telephone switching office facilities, cellular radio base station tower facilities, access to antenna, radio receiver and transmitter, data and control signaling, processing equipment, power amplifiers and cell site controllers, back-up power equipment and other essential basic network control and management facilities provided by the existing cellular licenses.⁵¹

Grand's proposal should be rejected. If Grand's suggestions regarding interconnection were adopted, existing

⁴⁹ BellSouth at 3; Bell Atlantic at 3. Some carriers have proposed that a discussion of equal access issues be postponed and be considered by the Commission in the context of RM-8012. However, NYNEX believes that the Commission should incorporate the issues raised in RM-8012 in its findings in this proceeding.

⁵⁰ Bell Atlantic at 3.

⁵¹ Grand Broadcasting at 5-6.